

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 528

Representatives Smith, R., Rezabek

A BILL

To amend sections 2927.01 and 2929.13 of the 1
Revised Code to expand the penalties for abuse 2
of corpse offenses. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2927.01 and 2929.13 of the 4
Revised Code be amended to read as follows: 5

Sec. 2927.01. (A) No person, except as authorized by law, 6
shall treat a human corpse in a way that the person knows would 7
outrage reasonable family sensibilities. 8

(B) No person, except as authorized by law, shall treat a 9
human corpse in a way that would outrage reasonable community 10
sensibilities. 11

(C) (1) Whoever violates division (A) of this section is 12
guilty of abuse of a corpse~~7~~. Except as otherwise provided in 13
this division, abuse of a corpse is a misdemeanor of the second 14
degree. 15

(2) Whoever violates division (B) of this section is 16
guilty of gross abuse of a corpse~~7~~. Except as otherwise provided 17
in this division, gross abuse of a corpse is a felony of the 18

fifth degree.

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(3) If the offender commits a violation of this section by knowingly dismembering, severing, separating, dissecting, or mutilating any part of a human corpse, a violation of this section is a felony of the first degree, and notwithstanding the range of prison terms prescribed in section 2929.14 of the Revised Code, the court shall impose upon the offender a mandatory prison term of six, seven, eight, nine, ten, or eleven years.

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(4) If the offender commits a violation of this section by knowingly dismembering or mutilating any part of a human corpse as part of a ceremony, rite, initiation, observance, performance, or practice, a violation of this section is a felony of the second degree.

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(5) If the offender commits a violation of this section by knowingly dismembering, dissecting, mutilating, or incinerating any part of the human corpse of a child as part of a ceremony, rite, initiation, observance, performance, or practice, a violation of this section is a felony of the second degree, and notwithstanding the range of prison terms prescribed in section 2929.14 of the Revised Code, the court shall impose upon the offender a mandatory prison term of four, five, six, seven, or eight years. If the offender previously has been convicted of or pleaded guilty to a violation of this division, a violation of this division is a felony of the first degree, and notwithstanding the range of prison terms prescribed in section 2929.14 of the Revised Code, the court shall impose upon the offender a mandatory prison term of six, seven, eight, nine, ten, or eleven years.

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Sec. 2929.13. (A) Except as provided in division (E), (F),

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or (G) of this section and unless a specific sanction is 49
required to be imposed or is precluded from being imposed 50
pursuant to law, a court that imposes a sentence upon an 51
offender for a felony may impose any sanction or combination of 52
sanctions on the offender that are provided in sections 2929.14 53
to 2929.18 of the Revised Code. 54

If the offender is eligible to be sentenced to community 55
control sanctions, the court shall consider the appropriateness 56
of imposing a financial sanction pursuant to section 2929.18 of 57
the Revised Code or a sanction of community service pursuant to 58
section 2929.17 of the Revised Code as the sole sanction for the 59
offense. Except as otherwise provided in this division, if the 60
court is required to impose a mandatory prison term for the 61
offense for which sentence is being imposed, the court also 62
shall impose any financial sanction pursuant to section 2929.18 63
of the Revised Code that is required for the offense and may 64
impose any other financial sanction pursuant to that section but 65
may not impose any additional sanction or combination of 66
sanctions under section 2929.16 or 2929.17 of the Revised Code. 67

If the offender is being sentenced for a fourth degree 68
felony OVI offense or for a third degree felony OVI offense, in 69
addition to the mandatory term of local incarceration or the 70
mandatory prison term required for the offense by division (G) 71
(1) or (2) of this section, the court shall impose upon the 72
offender a mandatory fine in accordance with division (B) (3) of 73
section 2929.18 of the Revised Code and may impose whichever of 74
the following is applicable: 75

(1) For a fourth degree felony OVI offense for which 76
sentence is imposed under division (G) (1) of this section, an 77
additional community control sanction or combination of 78

community control sanctions under section 2929.16 or 2929.17 of 79
the Revised Code. If the court imposes upon the offender a 80
community control sanction and the offender violates any 81
condition of the community control sanction, the court may take 82
any action prescribed in division (B) of section 2929.15 of the 83
Revised Code relative to the offender, including imposing a 84
prison term on the offender pursuant to that division. 85

(2) For a third or fourth degree felony OVI offense for 86
which sentence is imposed under division (G) (2) of this section, 87
an additional prison term as described in division (B) (4) of 88
section 2929.14 of the Revised Code or a community control 89
sanction as described in division (G) (2) of this section. 90

(B) (1) (a) Except as provided in division (B) (1) (b) of this 91
section, if an offender is convicted of or pleads guilty to a 92
felony of the fourth or fifth degree that is not an offense of 93
violence or that is a qualifying assault offense, the court 94
shall sentence the offender to a community control sanction of 95
at least one year's duration if all of the following apply: 96

(i) The offender previously has not been convicted of or 97
pleaded guilty to a felony offense. 98

(ii) The most serious charge against the offender at the 99
time of sentencing is a felony of the fourth or fifth degree. 100

(iii) If the court made a request of the department of 101
rehabilitation and correction pursuant to division (B) (1) (c) of 102
this section, the department, within the forty-five-day period 103
specified in that division, provided the court with the names 104
of, contact information for, and program details of one or more 105
community control sanctions of at least one year's duration that 106
are available for persons sentenced by the court. 107

(iv) The offender previously has not been convicted of or 108
pleaded guilty to a misdemeanor offense of violence that the 109
offender committed within two years prior to the offense for 110
which sentence is being imposed. 111

(b) The court has discretion to impose a prison term upon 112
an offender who is convicted of or pleads guilty to a felony of 113
the fourth or fifth degree that is not an offense of violence or 114
that is a qualifying assault offense if any of the following 115
apply: 116

(i) The offender committed the offense while having a 117
firearm on or about the offender's person or under the 118
offender's control. 119

(ii) If the offense is a qualifying assault offense, the 120
offender caused serious physical harm to another person while 121
committing the offense, and, if the offense is not a qualifying 122
assault offense, the offender caused physical harm to another 123
person while committing the offense. 124

(iii) The offender violated a term of the conditions of 125
bond as set by the court. 126

(iv) The court made a request of the department of 127
rehabilitation and correction pursuant to division (B)(1)(c) of 128
this section, and the department, within the forty-five-day 129
period specified in that division, did not provide the court 130
with the name of, contact information for, and program details 131
of any community control sanction of at least one year's 132
duration that is available for persons sentenced by the court. 133

(v) The offense is a sex offense that is a fourth or fifth 134
degree felony violation of any provision of Chapter 2907. of the 135
Revised Code. 136

(vi) In committing the offense, the offender attempted to 137
cause or made an actual threat of physical harm to a person with 138
a deadly weapon. 139

(vii) In committing the offense, the offender attempted to 140
cause or made an actual threat of physical harm to a person, and 141
the offender previously was convicted of an offense that caused 142
physical harm to a person. 143

(viii) The offender held a public office or position of 144
trust, and the offense related to that office or position; the 145
offender's position obliged the offender to prevent the offense 146
or to bring those committing it to justice; or the offender's 147
professional reputation or position facilitated the offense or 148
was likely to influence the future conduct of others. 149

(ix) The offender committed the offense for hire or as 150
part of an organized criminal activity. 151

(x) The offender at the time of the offense was serving, 152
or the offender previously had served, a prison term. 153

(xi) The offender committed the offense while under a 154
community control sanction, while on probation, or while 155
released from custody on a bond or personal recognizance. 156

(c) If a court that is sentencing an offender who is 157
convicted of or pleads guilty to a felony of the fourth or fifth 158
degree that is not an offense of violence or that is a 159
qualifying assault offense believes that no community control 160
sanctions are available for its use that, if imposed on the 161
offender, will adequately fulfill the overriding principles and 162
purposes of sentencing, the court shall contact the department 163
of rehabilitation and correction and ask the department to 164
provide the court with the names of, contact information for, 165

and program details of one or more community control sanctions 166
of at least one year's duration that are available for persons 167
sentenced by the court. Not later than forty-five days after 168
receipt of a request from a court under this division, the 169
department shall provide the court with the names of, contact 170
information for, and program details of one or more community 171
control sanctions of at least one year's duration that are 172
available for persons sentenced by the court, if any. Upon 173
making a request under this division that relates to a 174
particular offender, a court shall defer sentencing of that 175
offender until it receives from the department the names of, 176
contact information for, and program details of one or more 177
community control sanctions of at least one year's duration that 178
are available for persons sentenced by the court or for forty- 179
five days, whichever is the earlier. 180

If the department provides the court with the names of, 181
contact information for, and program details of one or more 182
community control sanctions of at least one year's duration that 183
are available for persons sentenced by the court within the 184
forty-five-day period specified in this division, the court 185
shall impose upon the offender a community control sanction 186
under division (B) (1) (a) of this section, except that the court 187
may impose a prison term under division (B) (1) (b) of this 188
section if a factor described in division (B) (1) (b) (i) or (ii) 189
of this section applies. If the department does not provide the 190
court with the names of, contact information for, and program 191
details of one or more community control sanctions of at least 192
one year's duration that are available for persons sentenced by 193
the court within the forty-five-day period specified in this 194
division, the court may impose upon the offender a prison term 195
under division (B) (1) (b) (iv) of this section. 196

(d) A sentencing court may impose an additional penalty 197
under division (B) of section 2929.15 of the Revised Code upon 198
an offender sentenced to a community control sanction under 199
division (B) (1) (a) of this section if the offender violates the 200
conditions of the community control sanction, violates a law, or 201
leaves the state without the permission of the court or the 202
offender's probation officer. 203

(2) If division (B) (1) of this section does not apply, 204
except as provided in division (E), (F), or (G) of this section, 205
in determining whether to impose a prison term as a sanction for 206
a felony of the fourth or fifth degree, the sentencing court 207
shall comply with the purposes and principles of sentencing 208
under section 2929.11 of the Revised Code and with section 209
2929.12 of the Revised Code. 210

(C) Except as provided in division (D), (E), (F), or (G) 211
of this section, in determining whether to impose a prison term 212
as a sanction for a felony of the third degree or a felony drug 213
offense that is a violation of a provision of Chapter 2925. of 214
the Revised Code and that is specified as being subject to this 215
division for purposes of sentencing, the sentencing court shall 216
comply with the purposes and principles of sentencing under 217
section 2929.11 of the Revised Code and with section 2929.12 of 218
the Revised Code. 219

(D) (1) Except as provided in division (E) or (F) of this 220
section, for a felony of the first or second degree, for a 221
felony drug offense that is a violation of any provision of 222
Chapter 2925., 3719., or 4729. of the Revised Code for which a 223
presumption in favor of a prison term is specified as being 224
applicable, and for a violation of division (A) (4) or (B) of 225
section 2907.05 of the Revised Code for which a presumption in 226

favor of a prison term is specified as being applicable, it is 227
presumed that a prison term is necessary in order to comply with 228
the purposes and principles of sentencing under section 2929.11 229
of the Revised Code. Division (D) (2) of this section does not 230
apply to a presumption established under this division for a 231
violation of division (A) (4) of section 2907.05 of the Revised 232
Code. 233

(2) Notwithstanding the presumption established under 234
division (D) (1) of this section for the offenses listed in that 235
division other than a violation of division (A) (4) or (B) of 236
section 2907.05 of the Revised Code, the sentencing court may 237
impose a community control sanction or a combination of 238
community control sanctions instead of a prison term on an 239
offender for a felony of the first or second degree or for a 240
felony drug offense that is a violation of any provision of 241
Chapter 2925., 3719., or 4729. of the Revised Code for which a 242
presumption in favor of a prison term is specified as being 243
applicable if it makes both of the following findings: 244

(a) A community control sanction or a combination of 245
community control sanctions would adequately punish the offender 246
and protect the public from future crime, because the applicable 247
factors under section 2929.12 of the Revised Code indicating a 248
lesser likelihood of recidivism outweigh the applicable factors 249
under that section indicating a greater likelihood of 250
recidivism. 251

(b) A community control sanction or a combination of 252
community control sanctions would not demean the seriousness of 253
the offense, because one or more factors under section 2929.12 254
of the Revised Code that indicate that the offender's conduct 255
was less serious than conduct normally constituting the offense 256

are applicable, and they outweigh the applicable factors under 257
that section that indicate that the offender's conduct was more 258
serious than conduct normally constituting the offense. 259

(E) (1) Except as provided in division (F) of this section, 260
for any drug offense that is a violation of any provision of 261
Chapter 2925. of the Revised Code and that is a felony of the 262
third, fourth, or fifth degree, the applicability of a 263
presumption under division (D) of this section in favor of a 264
prison term or of division (B) or (C) of this section in 265
determining whether to impose a prison term for the offense 266
shall be determined as specified in section 2925.02, 2925.03, 267
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 268
2925.36, or 2925.37 of the Revised Code, whichever is applicable 269
regarding the violation. 270

(2) If an offender who was convicted of or pleaded guilty 271
to a felony violates the conditions of a community control 272
sanction imposed for the offense solely by reason of producing 273
positive results on a drug test or by acting pursuant to 274
division (B) (2) (b) of section 2925.11 of the Revised Code with 275
respect to a minor drug possession offense, the court, as 276
punishment for the violation of the sanction, shall not order 277
that the offender be imprisoned unless the court determines on 278
the record either of the following: 279

(a) The offender had been ordered as a sanction for the 280
felony to participate in a drug treatment program, in a drug 281
education program, or in narcotics anonymous or a similar 282
program, and the offender continued to use illegal drugs after a 283
reasonable period of participation in the program. 284

(b) The imprisonment of the offender for the violation is 285
consistent with the purposes and principles of sentencing set 286

forth in section 2929.11 of the Revised Code. 287

(3) A court that sentences an offender for a drug abuse 288
offense that is a felony of the third, fourth, or fifth degree 289
may require that the offender be assessed by a properly 290
credentialed professional within a specified period of time. The 291
court shall require the professional to file a written 292
assessment of the offender with the court. If the offender is 293
eligible for a community control sanction and after considering 294
the written assessment, the court may impose a community control 295
sanction that includes addiction services and recovery supports 296
included in a community-based continuum of care established 297
under section 340.032 of the Revised Code. If the court imposes 298
addiction services and recovery supports as a community control 299
sanction, the court shall direct the level and type of addiction 300
services and recovery supports after considering the assessment 301
and recommendation of community addiction services providers. 302

(F) Notwithstanding divisions (A) to (E) of this section, 303
the court shall impose a prison term or terms under sections 304
2929.02 to 2929.06, section 2929.14, section 2929.142, or 305
section 2971.03 of the Revised Code and except as specifically 306
provided in section 2929.20, divisions (C) to (I) of section 307
2967.19, or section 2967.191 of the Revised Code or when parole 308
is authorized for the offense under section 2967.13 of the 309
Revised Code shall not reduce the term or terms pursuant to 310
section 2929.20, section 2967.19, section 2967.193, or any other 311
provision of Chapter 2967. or Chapter 5120. of the Revised Code 312
for any of the following offenses: 313

(1) Aggravated murder when death is not imposed or murder; 314

(2) Any rape, regardless of whether force was involved and 315
regardless of the age of the victim, or an attempt to commit 316

rape if, had the offender completed the rape that was attempted, 317
the offender would have been guilty of a violation of division 318
(A) (1) (b) of section 2907.02 of the Revised Code and would be 319
sentenced under section 2971.03 of the Revised Code; 320

(3) Gross sexual imposition or sexual battery, if the 321
victim is less than thirteen years of age and if any of the 322
following applies: 323

(a) Regarding gross sexual imposition, the offender 324
previously was convicted of or pleaded guilty to rape, the 325
former offense of felonious sexual penetration, gross sexual 326
imposition, or sexual battery, and the victim of the previous 327
offense was less than thirteen years of age; 328

(b) Regarding gross sexual imposition, the offense was 329
committed on or after August 3, 2006, and evidence other than 330
the testimony of the victim was admitted in the case 331
corroborating the violation. 332

(c) Regarding sexual battery, either of the following 333
applies: 334

(i) The offense was committed prior to August 3, 2006, the 335
offender previously was convicted of or pleaded guilty to rape, 336
the former offense of felonious sexual penetration, or sexual 337
battery, and the victim of the previous offense was less than 338
thirteen years of age. 339

(ii) The offense was committed on or after August 3, 2006. 340

(4) A felony violation of section 2903.04, 2903.06, 341
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 342
or 2923.132 of the Revised Code if the section requires the 343
imposition of a prison term; 344

(5) A first, second, or third degree felony drug offense 345
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 346
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 347
or 4729.99 of the Revised Code, whichever is applicable 348
regarding the violation, requires the imposition of a mandatory 349
prison term; 350

(6) Any offense that is a first or second degree felony 351
and that is not set forth in division (F) (1), (2), (3), or (4) 352
of this section, if the offender previously was convicted of or 353
pleaded guilty to aggravated murder, murder, any first or second 354
degree felony, or an offense under an existing or former law of 355
this state, another state, or the United States that is or was 356
substantially equivalent to one of those offenses; 357

(7) Any offense that is a third degree felony and either 358
is a violation of section 2903.04 of the Revised Code or an 359
attempt to commit a felony of the second degree that is an 360
offense of violence and involved an attempt to cause serious 361
physical harm to a person or that resulted in serious physical 362
harm to a person if the offender previously was convicted of or 363
pleaded guilty to any of the following offenses: 364

(a) Aggravated murder, murder, involuntary manslaughter, 365
rape, felonious sexual penetration as it existed under section 366
2907.12 of the Revised Code prior to September 3, 1996, a felony 367
of the first or second degree that resulted in the death of a 368
person or in physical harm to a person, or complicity in or an 369
attempt to commit any of those offenses; 370

(b) An offense under an existing or former law of this 371
state, another state, or the United States that is or was 372
substantially equivalent to an offense listed in division (F) (7) 373
(a) of this section that resulted in the death of a person or in 374

physical harm to a person.	375
(8) Any offense, other than a violation of section 2923.12 of the Revised Code, that is a felony, if the offender had a firearm on or about the offender's person or under the offender's control while committing the felony, with respect to a portion of the sentence imposed pursuant to division (B)(1)(a) of section 2929.14 of the Revised Code for having the firearm;	376 377 378 379 380 381
(9) Any offense of violence that is a felony, if the offender wore or carried body armor while committing the felony offense of violence, with respect to the portion of the sentence imposed pursuant to division (B)(1)(d) of section 2929.14 of the Revised Code for wearing or carrying the body armor;	382 383 384 385 386
(10) Corrupt activity in violation of section 2923.32 of the Revised Code when the most serious offense in the pattern of corrupt activity that is the basis of the offense is a felony of the first degree;	387 388 389 390
(11) Any violent sex offense or designated homicide, assault, or kidnapping offense if, in relation to that offense, the offender is adjudicated a sexually violent predator;	391 392 393
(12) A violation of division (A)(1) or (2) of section 2921.36 of the Revised Code, or a violation of division (C) of that section involving an item listed in division (A)(1) or (2) of that section, if the offender is an officer or employee of the department of rehabilitation and correction;	394 395 396 397 398
(13) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11	399 400 401 402 403

of the Revised Code, with respect to the portion of the sentence 404
imposed pursuant to division (B) (5) of section 2929.14 of the 405
Revised Code; 406

(14) A violation of division (A) (1) or (2) of section 407
2903.06 of the Revised Code if the offender has been convicted 408
of or pleaded guilty to three or more violations of division (A) 409
or (B) of section 4511.19 of the Revised Code or an equivalent 410
offense, as defined in section 2941.1415 of the Revised Code, or 411
three or more violations of any combination of those divisions 412
and offenses, with respect to the portion of the sentence 413
imposed pursuant to division (B) (6) of section 2929.14 of the 414
Revised Code; 415

(15) Kidnapping, in the circumstances specified in section 416
2971.03 of the Revised Code and when no other provision of 417
division (F) of this section applies; 418

(16) Kidnapping, abduction, compelling prostitution, 419
promoting prostitution, engaging in a pattern of corrupt 420
activity, illegal use of a minor in a nudity-oriented material 421
or performance in violation of division (A) (1) or (2) of section 422
2907.323 of the Revised Code, or endangering children in 423
violation of division (B) (1), (2), (3), (4), or (5) of section 424
2919.22 of the Revised Code, if the offender is convicted of or 425
pleads guilty to a specification as described in section 426
2941.1422 of the Revised Code that was included in the 427
indictment, count in the indictment, or information charging the 428
offense; 429

(17) A felony violation of division (A) or (B) of section 430
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 431
that section, and division (D) (6) of that section, require the 432
imposition of a prison term; 433

(18) A felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code, if the victim of the offense was a woman that the offender knew was pregnant at the time of the violation, with respect to a portion of the sentence imposed pursuant to division (B) (8) of section 2929.14 of the Revised Code;

(19) (a) Any violent felony offense if the offender is a violent career criminal and had a firearm on or about the offender's person or under the offender's control during the commission of the violent felony offense and displayed or brandished the firearm, indicated that the offender possessed a firearm, or used the firearm to facilitate the offense, with respect to the portion of the sentence imposed under division (K) of section 2929.14 of the Revised Code.

(b) As used in division (F) (19) (a) of this section, "violent career criminal" and "violent felony offense" have the same meanings as in section 2923.132 of the Revised Code;

(20) Any violation of division (A) (1) of section 2903.11 of the Revised Code if the offender used an accelerant in committing the violation and the serious physical harm to another or another's unborn caused by the violation resulted in a permanent, serious disfigurement or permanent, substantial incapacity or any violation of division (A) (2) of that section if the offender used an accelerant in committing the violation, the violation caused physical harm to another or another's unborn, and the physical harm resulted in a permanent, serious disfigurement or permanent, substantial incapacity, with respect to a portion of the sentence imposed pursuant to division (B) (9) of section 2929.14 of the Revised Code. The provisions of this division and of division (D) (2) of section 2903.11, divisions

(B) (9) and (C) (6) of section 2929.14, and section 2941.1425 of 464
the Revised Code shall be known as "Judy's Law." 465

(21) A violation of division (C) (3) or (5) of section 466
2927.01 of the Revised Code. 467

(G) Notwithstanding divisions (A) to (E) of this section, 468
if an offender is being sentenced for a fourth degree felony OVI 469
offense or for a third degree felony OVI offense, the court 470
shall impose upon the offender a mandatory term of local 471
incarceration or a mandatory prison term in accordance with the 472
following: 473

(1) If the offender is being sentenced for a fourth degree 474
felony OVI offense and if the offender has not been convicted of 475
and has not pleaded guilty to a specification of the type 476
described in section 2941.1413 of the Revised Code, the court 477
may impose upon the offender a mandatory term of local 478
incarceration of sixty days or one hundred twenty days as 479
specified in division (G) (1) (d) of section 4511.19 of the 480
Revised Code. The court shall not reduce the term pursuant to 481
section 2929.20, 2967.193, or any other provision of the Revised 482
Code. The court that imposes a mandatory term of local 483
incarceration under this division shall specify whether the term 484
is to be served in a jail, a community-based correctional 485
facility, a halfway house, or an alternative residential 486
facility, and the offender shall serve the term in the type of 487
facility specified by the court. A mandatory term of local 488
incarceration imposed under division (G) (1) of this section is 489
not subject to any other Revised Code provision that pertains to 490
a prison term except as provided in division (A) (1) of this 491
section. 492

(2) If the offender is being sentenced for a third degree 493

felony OVI offense, or if the offender is being sentenced for a 494
fourth degree felony OVI offense and the court does not impose a 495
mandatory term of local incarceration under division (G) (1) of 496
this section, the court shall impose upon the offender a 497
mandatory prison term of one, two, three, four, or five years if 498
the offender also is convicted of or also pleads guilty to a 499
specification of the type described in section 2941.1413 of the 500
Revised Code or shall impose upon the offender a mandatory 501
prison term of sixty days or one hundred twenty days as 502
specified in division (G) (1) (d) or (e) of section 4511.19 of the 503
Revised Code if the offender has not been convicted of and has 504
not pleaded guilty to a specification of that type. Subject to 505
divisions (C) to (I) of section 2967.19 of the Revised Code, the 506
court shall not reduce the term pursuant to section 2929.20, 507
2967.19, 2967.193, or any other provision of the Revised Code. 508
The offender shall serve the one-, two-, three-, four-, or five- 509
year mandatory prison term consecutively to and prior to the 510
prison term imposed for the underlying offense and consecutively 511
to any other mandatory prison term imposed in relation to the 512
offense. In no case shall an offender who once has been 513
sentenced to a mandatory term of local incarceration pursuant to 514
division (G) (1) of this section for a fourth degree felony OVI 515
offense be sentenced to another mandatory term of local 516
incarceration under that division for any violation of division 517
(A) of section 4511.19 of the Revised Code. In addition to the 518
mandatory prison term described in division (G) (2) of this 519
section, the court may sentence the offender to a community 520
control sanction under section 2929.16 or 2929.17 of the Revised 521
Code, but the offender shall serve the prison term prior to 522
serving the community control sanction. The department of 523
rehabilitation and correction may place an offender sentenced to 524
a mandatory prison term under this division in an intensive 525

program prison established pursuant to section 5120.033 of the Revised Code if the department gave the sentencing judge prior notice of its intent to place the offender in an intensive program prison established under that section and if the judge did not notify the department that the judge disapproved the placement. Upon the establishment of the initial intensive program prison pursuant to section 5120.033 of the Revised Code that is privately operated and managed by a contractor pursuant to a contract entered into under section 9.06 of the Revised Code, both of the following apply:

(a) The department of rehabilitation and correction shall make a reasonable effort to ensure that a sufficient number of offenders sentenced to a mandatory prison term under this division are placed in the privately operated and managed prison so that the privately operated and managed prison has full occupancy.

(b) Unless the privately operated and managed prison has full occupancy, the department of rehabilitation and correction shall not place any offender sentenced to a mandatory prison term under this division in any intensive program prison established pursuant to section 5120.033 of the Revised Code other than the privately operated and managed prison.

(H) If an offender is being sentenced for a sexually oriented offense or child-victim oriented offense that is a felony committed on or after January 1, 1997, the judge shall require the offender to submit to a DNA specimen collection procedure pursuant to section 2901.07 of the Revised Code.

(I) If an offender is being sentenced for a sexually oriented offense or a child-victim oriented offense committed on or after January 1, 1997, the judge shall include in the

sentence a summary of the offender's duties imposed under 556
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 557
Code and the duration of the duties. The judge shall inform the 558
offender, at the time of sentencing, of those duties and of 559
their duration. If required under division (A)(2) of section 560
2950.03 of the Revised Code, the judge shall perform the duties 561
specified in that section, or, if required under division (A)(6) 562
of section 2950.03 of the Revised Code, the judge shall perform 563
the duties specified in that division. 564

(J)(1) Except as provided in division (J)(2) of this 565
section, when considering sentencing factors under this section 566
in relation to an offender who is convicted of or pleads guilty 567
to an attempt to commit an offense in violation of section 568
2923.02 of the Revised Code, the sentencing court shall consider 569
the factors applicable to the felony category of the violation 570
of section 2923.02 of the Revised Code instead of the factors 571
applicable to the felony category of the offense attempted. 572

(2) When considering sentencing factors under this section 573
in relation to an offender who is convicted of or pleads guilty 574
to an attempt to commit a drug abuse offense for which the 575
penalty is determined by the amount or number of unit doses of 576
the controlled substance involved in the drug abuse offense, the 577
sentencing court shall consider the factors applicable to the 578
felony category that the drug abuse offense attempted would be 579
if that drug abuse offense had been committed and had involved 580
an amount or number of unit doses of the controlled substance 581
that is within the next lower range of controlled substance 582
amounts than was involved in the attempt. 583

(K) As used in this section: 584

(1) "Community addiction services provider" has the same 585

meaning as in section 5119.01 of the Revised Code. 586

(2) "Drug abuse offense" has the same meaning as in 587
section 2925.01 of the Revised Code. 588

(3) "Minor drug possession offense" has the same meaning 589
as in section 2925.11 of the Revised Code. 590

(4) "Qualifying assault offense" means a violation of 591
section 2903.13 of the Revised Code for which the penalty 592
provision in division (C) (8) (b) or (C) (9) (b) of that section 593
applies. 594

(L) At the time of sentencing an offender for any sexually 595
oriented offense, if the offender is a tier III sex 596
offender/child-victim offender relative to that offense and the 597
offender does not serve a prison term or jail term, the court 598
may require that the offender be monitored by means of a global 599
positioning device. If the court requires such monitoring, the 600
cost of monitoring shall be borne by the offender. If the 601
offender is indigent, the cost of compliance shall be paid by 602
the crime victims reparations fund. 603

Section 2. That existing sections 2927.01 and 2929.13 of 604
the Revised Code are hereby repealed. 605